

# WASHOE COUNTY BOARD OF ADJUSTMENT Meeting Minutes

## Board of Adjustment Members

Lee Lawrence, Chair  
Kim Toulouse, Vice Chair  
Kristina Hill  
Brad Stanley  
Clay Thomas  
William Whitney, Secretary

Thursday, February 2, 2017  
1:30 p.m.

Washoe County Administration Complex  
Commission Chambers  
1001 East Ninth Street  
Reno, NV

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The Washoe County Board of Adjustment met in regular session on Thursday, February 2, 2017, in the Washoe County Administrative Complex Commission Chambers, 1001 East Ninth Street, Reno, Nevada.

### 1. \*Determination of Quorum

Chair Toulouse called the meeting to order at 1:30 p.m. The following members and staff were present:

Members present:	Kim Toulouse, Chair Clay Thomas, Vice-Chair Kristina Hill Lee Lawrence Brad Stanley
Members absent:	None
Staff present:	Bob Webb, Planning Manager, Planning and Development Roger Pelham, Senior Planner, Planning and Development Chad Giesinger, Senior Planner, Planning and Development Nathan Edwards, Deputy District Attorney, District Attorney's Office Eva Krause, Planner, Planning and Development Donna Fagan, Recording Secretary

### 2. \*Pledge of Allegiance

Member Lawrence led the pledge to the flag.

### 3. \*Ethics Law Announcement

Deputy District Attorney Edwards recited the Ethics Law standards.

### 4. \*Appeal Procedure

Mr. Webb recited the appeal procedure for items heard before the Board of Adjustment.

### 5. \*Public Comment

Chair Toulouse opened the Public Comment period. Cathy Brandhorst discussed issues of concern to herself. Chair Toulouse closed the Public Comment period.

## 6. Approval of Agenda

In accordance with the Open Meeting Law, Member Stanley moved to approve the agenda for February 2, 2017. The motion was seconded by Member Lawrence, which carried unanimously.

## 7. Approval of December 1, 2016 Draft Minutes

Member Stanley moved to approve the minutes of December 1, 2016 as written. The motion was seconded by Member Lawrence, which carried unanimously.

## 8. Public Hearings

**A. Special Use Permit Case Number WSUP16-0001 (Ophir Hill)** – Hearing, discussion, and possible action to approve a Special Use Permit for major grading in excess of the 5,000 cubic yards of excavation threshold established in Washoe County Code Section 110.438.35, to grade a total of 416,580 square feet (or 9.56 acres) and excavate a total of 38,834 cubic yards of material, and to provide for an overall code compliance plan pursuant to Washoe County Code Section 125.160 to terminate operation of the existing unlawful commercial rock quarry.

- Applicant/Property Owner: Burdick Excavating Co., Inc. and Boulder Creek Enterprises
- Location: 3270 Old US Highway 395, Washoe Valley
- Assessor's Parcel Numbers: 046-032-02, 046-032-04, 046-032-05
- Parcel Size: 5.29 acres, 2.48 acres, 3.58 acres
- Master Plan Category: Rural (R)
- Regulatory Zone: High Density Rural (HDR)
- Area Plan: South Valley
- Citizen Advisory Board: South Truckee Meadows/Washoe Valley
- Development Code: Authorized in Article 438 (Grading) and Article 810 (Special Use Permits)
- Commission District: 2 – Commissioner Lucey
- Section/Township/Range: Section 34, T17N, R19E, MDM, Washoe County, NV
- Staff: Chad Giesinger, AICP, Senior Planner
- Phone: 775.328.3626
- Email: cgiesinger@washoecounty.us

Chad Giesinger, Senior Planner, presented his Staff Report. Chair Toulouse opened discussion to the Applicant. Linda Burdick, Owner, presented a PowerPoint presentation, which was placed on file with the Clerk. She explained the presentation was an overview of the slide which initiated at the top of Slide Mountain. She showed the property and where the majority of the material ended up; some pictures from local newspapers; and, an example of the end result of the slide that took place in 1983. The house was removed from the property on which most of the material landed and the people survived the slide because they went to the second floor. She showed photos of US Highway 395 that had to be closed because the material made it all the way to the new US Highway 395, of a horse being evacuated by helicopter, an overturned truck and a picture of a gentleman on top of a rock that ended up on his property. She shared with the Board what they had planned for this material. She said there had been no excavation that had taken place on this site other than the slide material. She showed a project they did shortly after the slide in Tahoe Hills and gave an example of how the rock was being used for environmental purposes. She noted this method of rock slope stabilization was very effective and used throughout the Tahoe Basin regularly. She stated they had done this in Incline Village and filled culverts under Incline Way. She showed Black Wood Canyon where they rebuilt a stream. She said they started working on the existing Upper/Middle Rosewood Creek, the Corner of Northwood and State Route 28, Tahoe City at the Museum, Incline Village at Third Creek, underneath State Route 28 in Incline Village, and the product had been utilized very effectively with the TRPA in the Tahoe Basin. Last fall they gave

out nine awards for excellence for environmental projects in the Tahoe Basin and they received four of them.

Chair Toulouse opened up questions to the Board. Hearing none, he opened it up to Public Comment. Mike Railey, Rubicon Design Group representing Burdick Excavating, said he prepared the Special Use Permit package and they were in concurrence with the conditions. He stated the grading plan was essentially a restoration plan.

Cathy Brandhorst spoke about issues of concern to herself. Chair Toulouse closed the Public Hearing.

Member Hill asked if Burdick Excavation owned the property. Mr. Railey stated they did. Member Hill asked what would happen at the end of the four-year period after it was restored. Ms. Burdick stated their goal was to regrade it into an aesthetically pleasing site because when they first came to it the grade of the old US Highway 395 was about 22 feet above the existing grade. She said they hoped to slope it from the Old US 395 Highway and then gradually make it aesthetically pleasing and put four or five homes on it.

Chair Toulouse called for any disclosures. Member Stanley stated he took the liberty of getting in touch with the CAB associated with this project and he learned that this project received unanimous approval. Chair Toulouse stated he worked for the Truckee Meadows Fire Protection District at the time of the incident and was there the day it happened.

Chair Toulouse brought the discussion back to the Board. Member Lawrence stated he was driving down the road when the slide happened and he was in support of this project. Member Stanley stated he concurred and thought this created a tremendous service. Chair Toulouse stated he felt the Applicant had dealt with this in an appropriate manner and it would be a corrective action for the next four years.

Member Stanley moved that after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Washoe County Board of Adjustment approve Special Use Permit Case Number WSUP16-0001, with the Conditions of Approval included as Exhibit A for this matter, for Burdick Excavating, having made all five findings in accordance with Washoe County Code Section 110.810.30. Member Hill seconded the motion, which carried unanimously.

1. Consistency. That the proposed use is consistent with the action programs, policies, standards and maps of the Master Plan and the South Valleys Area Plan;
2. Improvements. That adequate utilities, roadway improvements, sanitation, water supply, drainage, and other necessary facilities have been provided, the proposed improvements are properly related to existing and proposed roadways, and an adequate public facilities determination has been made in accordance with Division Seven;
3. Site Suitability. That the site is physically suitable for the type of development and for the intensity of such a development;
4. Issuance Not Detrimental. That issuance of the permit will not be significantly detrimental to the public health, safety or welfare; injurious to the property or improvements of adjacent properties; or detrimental to the character of the surrounding area;
5. Effect on a Military Installation. Issuance of the permit will not have a detrimental effect on the location, purpose or mission of the military installation.

**B. Variance Case Number WPVAR16-0001 (Meyer-McSherry) – Hearing, discussion, and possible action to approve a variance to the front and side yard setbacks to allow for the**

construction of a garage and associated hallway connection. The front yard setback would be reduced from 20 feet to 7.1 feet and the side yard setback would be reduced from 5 feet to 3.5 feet.

- Applicant: Charles Meyer and Suzanne McSherry
- Property Owner: Meyer-McSherry Family Trust
- Location: 380 Tuscarora Road, Crystal Bay, 89402
- Assessor's Parcel Number: 123-142-15
- Parcel Size: .16 acres
- Master Plan Category: Suburban (S)
- Regulatory Zone: High Density Suburban (HDS)
- Area Plan: Tahoe
- Citizen Advisory Board: Incline Village/Crystal Bay
- Development Code: Authorized in Article 804 (Variances)
- Commission District: 1 – Commissioner Berkgigler
- Section/Township/Range: Section 19, T16N, R18E, MDM, Washoe County, NV
- Staff: Chad Giesinger, AICP, Senior Planner
- Phone: 775.328.3626
- Email: giesinger@washoecounty.us

Chad Giesinger, Senior Planner, presented his Staff Report. He noted he received an objection letter from a neighbor and he read it into the record.

Member Lawrence asked if the tree was considered a special circumstance or was it topography. Mr. Giesinger stated it was topography, but he thought it could be said that it was an extenuating circumstance. The TRPA had an ordinance about protecting trees, but the County did not.

Chair Toulouse opened discussion up to the Applicant. Dale Smith, Smith Design Group, stated he prepared the application. He said they reviewed the conditions of approval and concurred.

Member Hill asked if the tree in question was a hazard tree because it had multiple tops. She wondered if it would be possible to move the garage closer to the house instead of having the bridge and encroach on the side yard setback. Mr. Smith stated the reason for the request for the 18 inches into the side yard setback was simply to give the tree 18 inches more for the roots. He said he was comfortable if a tree was within five feet of a foundation line, but this tree was larger and he felt it needed as much breathing room as it could get without damaging the roots during excavation. The adjacent home was far enough from the proposed garage that snow sliding off the roof was not a consideration and 18 inches seemed like a small amount to give up in order to keep the tree. Member Hill said there was no difference in the slope and if they could get rid of the tree they could have the garage attached to the home instead of having the breezeway. Mr. Smith stated that was correct.

Member Thomas asked what the eight foot distance from the tree was based upon. Mr. Smith stated the existing tree was bounded on the lower east side by pre-existing rock walls. He said he knew the roots did not extend any farther beyond the rock wall and as that wall moved north it narrowed. He said as they got smaller and smaller the chances of an existing root being in that area got smaller and they hoped to not find any roots when they did their excavation. He described how they came to their conclusion of where the roots might be and why they designed it the way they did.

Member Hill asked if there was any chance they could bridge the foundation. Mr. Smith stated they could but at great expense. He said it would be a great expense to bridge that four and five foot width as it narrowed to nothing.

Member Lawrence asked what the age of the tree was. Mr. Smith stated they thought approximately 300 years. Chuck Meyer, owner, stated at the time they purchased the property they had some work done on the trees to ensure their health and fire safety and found it to be about 300 years old. Member Lawrence asked if there had been an Arborist or Horticulturist consulted about the excavation around the base of the tree as far as the roots and watershed, because there would be a dramatic change in how this 300 year old tree would be accumulating its water. Mr. Smith stated they did not.

Chair Toulouse opened Public Comment. John Sell, 390 Tuscarora, stated the preservation of the tree was a self-induced hardship and he believed an unnecessary request. He said it was actually a white fir that had been marked by the TRPA to be removed as a potential hazard. He noted the tree was co-dominant with multiple tops from prior damage and the permit to remove it expired in 2013. The owner mentioned to him that she did not want to spend the money at the time and the house was sold to the present owners in 2015. He understood the loss and expense, but he believed this tree was unlikely to survive that much longer for any reason, including the construction stress. The site setback of three feet, six inches for the proposed building and the additional 14 inches beyond that, due to the proposed north sloping roof eaves, was simply too close to his property. He said that would leave no room or area designated for snow removal and storage. He noted from the pictures that he provided no storage was a significant issue for the area generally and specifically. He previously had to address that problem on his property in 2004 with a series of rockery walls. In 2012 he gave permission to the prior owner of 380 Tuscarora to tie into his rockery wall. He said he had no intention of permitting any use of his property for construction and he did not want his walls disturbed. He did not see an allowance for a construction zone, which he believed had to be 12 feet. He said there was also not enough space with the proposed side setback for general maintenance and access, and he did not want access or disruption on his property. He noted the application also stated the proposed design would have no impact on his privacy and views, which was clearly not true. He defined those concerns in the written comments he provided. He said there were other alternatives for building a garage on the property that would minimize or eliminate the issues and would not require a side setback variance. He asked the Board to deny the request.

Cathy Brandhorst spoke of issues of concern to herself. Chair Toulouse closed Public Comment and brought discussion back to the Board. Chair Toulouse asked for any disclosures from the Board. There were none.

Member Stanley asked if the Planner stipulated that the tree was not a detriment or not strictly a detriment for the variance. Mr. Giesinger stated in his opinion he felt it was an extenuating circumstance, but that discretion was up to the Board as to what they felt was a special circumstance. He said the County Code did not have any tree preservation standards and one could argue that removal of any tree anywhere in Washoe County was not a special circumstance. He noted that the TRPA had a tree ordinance. Member Stanley asked if the tree was part of that determination. Mr. Giesinger said he would say that about any site that had a tree that old and that big.

Member Lawrence thought Mr. Meyer should reconsider this whole plan. He said this tree may do well in good water years, but in periods where we had four or more years of drought he may be very disappointed to see it being attacked by bark beetles and pests native to the Tahoe Basin. To disturb a tree of this age was going to put it under stress and he would not be surprised in a few years he would be consulting for the complete removal of the tree. He applauded his efforts to keep the tree and he thought he was trying to do the right thing, but in the long run he may be disappointed.

Member Hill said she visited the site and had no problem with the front yard setback even for a garage but she had to concur with the Board and Mr. Sell that the side yard setback was unwarranted for the protection of that tree. She said there was also a TRPA permit to remove it because it could break and fall over with the massive snow. She said several trees around her house had broken and fallen and created hazards. She thought she would consider this a hazard tree during a big snow year and it would be a better design to have the garage closer to the house.

Member Thomas said the Board was bound by NRS 278.300, which addressed the issue of exceptional narrowness, shallowness, shape, topography or exception situations and conditions to a property. He questioned whether a tree fit that; however, the size and age of the tree and trying to keep natural resources in tack was also important. He said Mr. Sell supplied the Board with some documentation and the tree removal permit from 2010, which allowed for or recommended removal because of it being a hazard. He said he did not know if they met the requirements under NRS that would give them the authority to grant an exception.

Chair Toulouse stated White Fir trees typically lived from 160 to 200 years and then they died even under the best of circumstances. He did not doubt what he said about the tree being 300 years old and if it was, it was nearing the end of its life. He agreed the tree did not warrant a special circumstance and it could be taken out and then they would not have an issue with the side yard setback.

Mr. Smith said they were unaware there had been a permit approved earlier for the removal of the tree and that it had been identified as a hazard. He stated they did not have a problem in eliminating the request for the side yard setback and moving the garage closer with the five-foot setback and maintain the request for the front yard setback.

Chair Toulouse thought they could amend the motion to include that. DDA Edwards stated notice was given that the Board would approve or deny "a" and "b" and now the request was for the Board to do only "a". His view was that since the Board was being asked to do less the Board would have the power to do it. Chair Toulouse asked if a continuance would satisfy the need to re-notice. DDA Edwards said if the Board determined to continue, he would have to speak with staff to see if it would be necessary to re-notice. He said the rules required action from the Board in a certain amount of time barring a continuance. If the preference was to move this to another meeting, the Board would need to get the consent of the Applicant.

Chair Toulouse stated his preference would be to move forward with the change of leaving out the side yard setback and with a motion to either approve or deny. He asked if the Applicant had any desire to continue the meeting or resubmit. Mr. Smith stated the Applicant was fine with moving forward and relinquishing the side yard setback and removal of the tree.

Member Thomas said his only concern of moving forward was the site plan was identified where the location would be and if the Board approved one part, they would not know exactly where the garage would sit. Chair Toulouse suggested the Applicant ask for a continuance, which would occur on April 6<sup>th</sup>. Mr. Smith stated the attention on eliminating the side yard setback request would be to simply move the garage 18 inches south and leave it abutting the setback line and if that was public testimony he thought that should be good enough. Chair Toulouse said it was the Board's inclination not to move forward at this meeting, so they would have to deny. Mr. Smith stated then they would request a continuance. DDA Edwards stated the Board could continue this item to the next meeting and no motion would be needed.

**C. Administrative Permit Case Number WADMIN16-0001 (Mays Building) - Hearing, discussion, and possible action to approve an Administrative Permit to allow the conversion of a portion of the first floor of an existing commercial office building into four residential apartments. The first floor of the building is 3662 square feet in size. Approximately 600 square feet is proposed to remain as a commercial office and approximately 3000 square feet is proposed to be converted into residential space.**

- Applicant/Property Owner: Tim Carlson  
9 Silver Saddle Court  
Washoe Valley, NV 89704
- Location: 795 Mays Blvd, Incline Village NV. Approximately 150 feet south of the intersection of Mays Boulevard and Southwood Boulevard

- Assessor's Parcel Number: 127-090-04
- Parcel Size: ± 0.54 acres
- Master Plan Category: Urban Residential (UR)
- Regulatory Zone: Medium Density Urban (MDU)
- Area Plan: Tahoe
- Citizen Advisory Board: Incline Village/Crystal Bay
- Development Code: Authorized in Article 808, Administrative Permits
- Commission District: 1 – Commissioner Berkbigler
- Section/Township/Range: Section 16, T16N, R18E, MDM,  
Washoe County, NV
- Staff: Roger Pelham, MPA, Senior Planner
- Phone: 775.328.3622
- Email: rpelham@washoecounty.us

Roger Pelham, Senior Planner, presented his Staff Report. He said staff was recommending approval of this project. Chair Toulouse opened up questions for the Board. Hearing none, he opened up discussion to the Applicant. Tim Carlson, Carlson and Associates and owner, stated they concurred with Staff and were willing to meet all the requirements as set forth. Chair Toulouse opened up Public Comment. Cathy Brandhorst spoke on issues of concern to herself. Chair Toulouse closed Public Comment and asked the Board for any disclosures. Hearing none, he opened up discussion to the Board.

Member Hill stated she liked mixed-use projects with residential and commercial and she commended the owner for taking it upon himself to provide additional housing. Member Thomas asked Mr. Carlson if the seven garages on the property would be available to the residents. Mr. Carlson stated they had to be available according to the Code and he would need to have three additional garages or carports and those would be assigned also. Chair Toulouse called for a motion.

Member Lawrence moved that after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Board of Adjustment approve Administrative Permit Case Number WADMIN16-0001 for Carlson and Associates, with the Conditions of Approval included as Exhibit A to this matter, having made all four required findings in accordance with Washoe County Code Section 110.808.25. Member Thomas seconded the motion, which carried unanimously.

1. Consistency. That the proposed use is consistent with the action programs, policies, standards and maps of the Master Plan and the Tahoe Area Plan;
2. Improvements. That adequate utilities, roadway improvements, sanitation, water supply, drainage, and other necessary facilities have been provided, the proposed improvements are properly related to existing and proposed roadways, and an adequate public facilities determination has been made in accordance with Division Seven;
3. Site Suitability. That the site is physically suitable for residential apartments, and for the intensity of such a development; and
4. Issuance Not Detrimental. That issuance of the permit will not be significantly detrimental to the public health, safety or welfare; injurious to the property or improvements of adjacent properties; or detrimental to the character of the surrounding area;

**2:58 pm** The Board took a recess.

**3:06 pm** The Board reconvened with all members present.

**D. Variance Case Number VA16-006 (Eget Residence)** – Hearing, discussion, and possible action to approve a variance 1) to reduce the side yard setback from 8 feet to 5 feet for a first floor addition on the main house and to expand the second floor to be in-line with the existing and proposed first floor additions; and 2) to reduce the side yard setback from 8 feet to 7 feet for the detached garage.

- Applicant/Owner: Jeffery D. Eget
- Location: 45 E. Tuscarora Road, Crystal Bay
- Assessor's Parcel Number: 123-136-02
- Parcel Size: 0.19 Acres (8,351 square feet)
- Master Plan Category: Suburban Residential (SR)
- Regulatory Zone: Medium Density Suburban (MDS)
- Area Plan: Tahoe
- Citizen Advisory Board: Incline Village/Crystal Bay
- Development Code: Authorized in Article 804 (Variances)
- Commission District: 1 – Commissioner Berkgigler
- Section/Township/Range: Section 19, T16N, R18E, MDM, Washoe County, NV
- Staff: Eva M. Krause, AICP, Planner
- Phone: 775.328.3628
- Email: ekrause@washoecounty.us

Chair Toulouse called for any disclosures. Eva Krause, Planner, presented her Staff Report.

James Borelli with Borelli Architecture was present on behalf of the applicant. He stated that it was a relatively simple clarification to the previous approval and that Ms. Krause had covered it well. He was available for questions.

Chair Toulouse called for public comment.

Jeff Eget, the owner of 45 East Tuscarora, stated that Mr. Borelli could answer everything, but that if he could not, then Mr. Eget could answer any questions.

Pete Todoroff, Chairman of the Incline Village/Crystal Bay Citizen Advisory Board said that this was a very unusual situation. He hoped that the Board of Adjustment (Board) approved it.

Chair Toulouse closed public comment and asked the Board for any disclosures or discussion. There were none. He called for a motion.

Member Hill moved that after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Washoe County Board of Adjustment approve Variance Case Number VA16-006 for Jeffery D. Eget, with the conditions of approval included as Exhibit A for this matter, having made all four findings in accordance with Washoe County Code Section 110.804.25. Member Lawrence seconded the motion which carried unanimously.

1. Special Circumstances. Because of the special circumstances applicable to the property, including exceptional narrowness, shallowness or shape of the specific piece of property; exceptional topographic conditions; extraordinary and exceptional situation or condition of the property and/or location of surroundings; the strict application of the regulation results in exceptional and undue hardships upon the owner of the property;
2. No Detriment. The relief will not create a substantial detriment to the public good, substantially impair affected natural resources or impair the intent and purpose of the Development Code or applicable policies under which the variance is granted;



3. No Special Privileges. The granting of the variance will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and the identical regulatory zone in which the property is situated;
4. Use Authorized. The variance will not authorize a use or activity which is not otherwise expressly authorized by the regulation governing the parcel of property.

**E. Variance Case Number WPVAR16-0002 (Sierra RV Storage Lot)** – Hearing, discussion, and possible action to approve a variance 1) to permit a commercial use of the property (Recreational Vehicle Storage and related apparatus) without a commercial structure, 2) to retroactively permit an 8 foot high fence adjoining a street instead of a standard height of 6 feet, 3) to reduce the landscaping requirements by requiring no landscaping other than trees along the street, 4) to eliminate all lighting requirements, and 5) to reduce the amount/area of required paving by allowing the owner to use an all-weather base material on the parking area instead of concrete or asphalt.

- Applicant/Property Owner: Sierra RV Super Center, Inc.
- Location: 16400 S. Virginia Street
- Assessor's Parcel Number: 071-320-15
- Parcel Size: 4 acres
- Master Plan Category: Commercial (C)
- Regulatory Zone: Neighborhood Commercial (NC)
- Area Plan: South Valleys
- Citizen Advisory Board: South Truckee Meadows/Washoe Valley
- Development Code: Authorized in Article 804 Variances
- Commission District: 2 – Commissioner Lucey
- Section/Township/Range: Section 04, T17N, R20E, MDM,  
Washoe County, NV
- Staff: Eva M. Krause, AICP, Planner
- Phone: 775.328.3628
- Email: ekrause@washoecounty.us

Eva Krause, Planner, presented her Staff Report. Chair Toulouse opened up questions to the Board. Member Thomas asked if the eight-foot fence faced the street and the other fences would be six foot. Ms. Krause explained it was eight feet all around; under the Code a commercial property could have an eight foot fence except for along the street. Member Thomas asked if it was an electric fence and Ms. Krause replied it was.

Chair Toulouse opened up discussion to the Applicant. Michele Rambo, Rubicon Design, stated she was available to answer questions. Member Thomas said he found it was amusing they had an eight foot fence to secure the property but they did not want any lights put up. He thought lights would deter any criminal activity. Ms. Rambo stated their decision to not put up lights was in consideration of the surrounding homes.

Chair Toulouse opened up Public Comment. Cathy Brandhorst spoke on issues of concern to herself. Chair Toulouse closed Public Comment and asked for any disclosures. Hearing none, he opened up discussion to the Board. Member Stanley stated he liked the project and thought it was a great example of turning a potential Code issue into a thoughtful and productive asset. Hearing no more discussion, Chair Toulouse called for a motion.

Member Thomas moved that after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Board of Adjustment approve Variance Case Number WPVAR16-0002 Sierra RV Super Center Inc. with the conditions of approval included as Exhibit A for this matter having made all four findings in accordance with the Washoe

County Development Code Section 110.804.25. Member Stanley seconded the motion, which carried unanimously.

1. Special Circumstances. Because of the special circumstances applicable to the property, including exceptional narrowness, shallowness or shape of the specific piece of property; exceptional topographic conditions; extraordinary and exceptional situation or condition of the property and/or location of surroundings; the strict application of the regulation results in exceptional and undue hardships upon the owner of the property;
2. No Detriment. The relief will not create a substantial detriment to the public good, substantially impair affected natural resources or impair the intent and purpose of the Development Code or applicable policies under which the variance is granted;
3. No Special Privileges. The granting of the variance will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and the identical regulatory zone in which the property is situated;
4. Use Authorized. The variance will not authorize a use or activity which is not otherwise expressly authorized by the regulation governing the parcel of property;

**F. Variance Case Number WPVAR16-0003 (Snyder Residence)** – Hearing, discussion, and possible action to approve a variance to reduce the front yard setback from 15 feet to 1.74 feet from the edge of the roadway pavement (2.5 feet from the recorded Public Works easement) to facilitate the construction of a garage with living space below.

- Applicant: Patrick and Filomena Snyder
- Property Owner: Snyder 1998 Family Trust
- Location: 540 Gonowabie Road, Crystal Bay
- Assessor's Parcel Number: 132-101-04
- Parcel Size: 0.563 acres
- Master Plan Category: Medium Density Suburban (MDS)
- Regulatory Zone: Suburban Residential (SR)
- Area Plan: Tahoe
- Citizen Advisory Board: Incline Village\Crystal Bay
- Development Code: Authorized in Article 804 Variances
- Commission District: 1 – Commissioner Berkbigler
- Section/Township/Range: Section 19, T16N, R18E, MDM, Washoe County, NV
- Staff: Eva M. Krause, AICP, Planner
- Phone: 775.328.3628
- Email: ekrause@washoecounty.us

Eva Krause, Planner, presented her Staff Report. Chair Toulouse opened up questions to the Board. Hearing none, he called the Applicant forward. Elise Fett, Architect Engineer, stated Ms. Krause was not able to do a site visit because of the storms. She presented several pictures for the Board to review and said Gonowabie Road had a history of being a unique narrow, tight, steep development with zero to two foot setbacks for detached garages. She showed several pictures of neighboring garages with zero to two foot setbacks. She said there was no easement or right-of-way through their property; only a utility easement. The request they were asking for was two and a half feet from the utility easement, or 1.74 feet from the edge of pavement.

Chair Toulouse asked Ms. Fett if she was not happy with the seven-foot setback and was asking for a 1.7 foot setback. Ms. Fett stated that was correct. Chair Toulouse stated what was on the request was seven feet, so the Board could not address or change that to more than what was on the Variance Request. Ms. Fett stated that was not on the Variance Request, it was on the Variance

Recommendation by Ms. Krause. Ms. Krause stated the Variance Project Summary was to reduce a 15 foot setback on a County maintained roadway to 1.7 feet for the construction of the garage. She said they were recommending approval to change that from 1.7 feet to 7 feet. She said it was advertised at 1.7 feet because that was what they requested; it was just not recommended.

Member Hill said it seemed like they were recommending to modify the condition from 15 feet to 7 feet for the setback, but the Applicant wanted 1.7 feet. Ms. Krause said that was correct and based on what Engineering's recommendation was, they were willing to give them a Variance but not to 1.7 feet. Member Hill asked if they would deny the approval for 1.7 feet and approve the 7 foot setback. DDA Edwards stated if the Board's intent was to approve Staff's recommendation they could do a motion to approve the Variance to 7 feet. The Board did not need to deny the request to 1.74 feet. Member Hill asked if the Applicant would rather this Board deny the request so that they could appeal to the Board of County Commissioners. Ms. Fett said the Engineer had not visited the site and disregarded that this was not a County road, and it did not have an easement, and it was private property.

Mr. Webb said that when the Applicant was interrupted she had approximately six minutes left and he suggested she finish her presentation and then open up questions to the Applicant. Chair Toulouse said the Applicant was repeating herself and the Board knew there were a lot of other properties that were in violation of the Code. Ms. Fett showed an Assessor's Map depicting homes that had two feet or less setbacks, two to seven feet setbacks, and garage setbacks that were more than seven feet. Therefore, she did not see this as being a special privilege. She showed the garage site plan and parking area and the corner where the setback would be. The garage would be six feet from the edge of the pavement and it was over seven feet from the utility easement. She showed the one-hour wall requirement they would have to do for the corner of the garage. If they were forced to do seven feet, they would have to squish this as close as they could. She showed where they were going to have guest parking and they had not had any problem with the management plan requested by Ms. Krause. She said there was more room to get around the corner of the garage than anywhere else on Gonowabie Road. She stated the property dropped 15 feet from the edge of pavement down to the patio that was going under the proposed garage. The snow storage was easily accommodated; it would go over the existing accessed areas.

Member Thomas asked if this was a one or two car garage. Ms. Fett stated it was a two-car garage. Member Hill asked if it was set at seven feet, what kind of hardship would that create. Ms. Fett stated they would not be able to fit the two-car garage in without doing a side setback to zero and even then it would be narrower than the 23 feet they were asking for. Member Hill said she drove down the street and was threading the needle between cars, but that was the way it was on Gonowabie Road. She said it was an old cabin that needed a garage and she thought it should have one because parking on the parking pad would be a disaster.

Member Stanley said staff's recommendation was based on the Engineering Study. Ms. Krause said the Engineering Department made a recommendation and that was the only reason she made the change from the request to what the Engineering Department recommended. Member Stanley asked if the Engineering recommendation was Exhibit C and if the Applicant had been involved in those discussions. Ms. Krause said not until towards the end when she was finishing up her Staff Report and that was why they did not have those comments.

Member Thomas asked if it was a hardship that they did not have a garage. Ms. Fett said the hardship was they were trying to work with the existing house and there was an extremely steep drop off. The edge of pavement was corroding away because there was drainage through their property creating a canyon and it took out the edge of pavement, so they built the retaining wall.

Member Lawrence said he did not notice anything from the CAB. Ms. Krause said they sent the application to the CAB members, but there were no meetings between September and February.

Chair Toulouse said they had done a bunch of these over the years on Gonowabie Road as well as on other roads and he had never seen one with a request for 1.7 feet. He said just because everyone else did it, did not mean they had to approve this one. He said he had difficulty granting 1.7 feet when we had statements in the Staff Report that it would create a safety hazard and would be a significant detriment to the public good. He said he could not go anywhere beyond the seven feet that was recommended by Staff.

Chair Toulouse opened Public Comment. Hearing none, he brought it back to the Board for disclosures. Hearing none, he opened the discussion period. Chair Toulouse said in the modified Approval of Conditions it stated seven feet from the edge of the roadway pavement. Ms. Krause said she defined the edge of the travel way as the edge of the pavement.

Member Hill said she could not see how the Board could approve the setback when that was not what the Applicant requested. She said would the Applicant have to go to the Board of County Commissioners and appeal our approval of the seven foot setback. DDA Edwards stated since it was less than what the Applicant was requesting and within the scope of the notice that was given for this item, the Board could approve staff's recommendation to seven feet, or the Board could also approve what the Applicant wanted. The follow up to that point was if the Applicant obtained approval of a seven foot Variance but not a 1.74 foot setback as requested, the Applicant would be able to appeal that and ask the County Commissioners to grant the full extent of the Variance request.

Member Lawrence asked what the issue would be of having one more home close to the road and being consistent with everything else that had been approved before. He believed all the people who lived there knew about the conditions of the road, the narrowness and the snow, they were used to it. He said he did not think this was more of a safety issue than any other property. He said he would support the 1.74 foot request. Member Hill said it was practical and people lived with it and it was an old cabin that needed a garage. Chair Toulouse said he had trouble because they had a written statement within the Staff Report that said it was a significant detriment to public safety. He asked legal counsel what the liability would be to the County if something happened. DDA Edwards said he could not answer that because if someone wanted to pin liability on the County it would involve all kinds of facts that he did not have in front of him. He thought the Board could take into account that concern, but he also thought the Board had enough in the record to make a judgement call. Chair Toulouse said they had the standard language asking for the encroachment permit and revocable encroachment permit and a hold harmless agreement by the DA's Office and he asked how much weight those carried in a legal action. DDA Edwards stated they would carry a lot of weight. He said the property owner executed the hold harmless and if there was damage during road maintenance work or snow removal that was the type of scenario when the hold harmless would come in to play.

Member Thomas asked if the footprint of the garage was the exact same for the patio they wanted to remove. Ms. Fett stated it was not; the garage would be larger and go over the existing retaining walls. Member Thomas said the property owner was proposing to remove an existing deck and build a garage at street level. He asked if the garage was going to be bigger than the deck that was being removed. Ms. Fett stated there was a deck at the level of the house that went through about half of what the proposed footprint of the garage was. Member Thomas said then the garage would be about double the size of the deck. Ms. Fett said that was correct because they could not get any closer to the house with the garage.

Member Stanley said from the edge of the roadway to where the edge of the garage would be was extremely narrow and a full-sized vehicle or fire truck could not get through there during an evacuation. He agreed they had an Engineer who stated it would be a public safety issue if they went to close to the road and he gave a lot of weight to that.

Chair Toulouse called for a motion. Member Hill moved that after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Board of

Adjustment approve Variance Case Number WPVAR16-0003 (Snyder Residence) to reduce the front yard setback from 15 feet to 1.74 feet from the edge of the roadway pavement for Patrick and Filomena Snyder with the Conditions of Approval as included as Exhibit A for this matter having made all four findings in accordance with the Washoe County Development Code Section 110.804.25; Special Circumstances, No Detriment, No Special Privileges and Use Authorized. Ms. Krause asked if she could add to her motion that she was striking Condition 2a from the Conditions of the Approval. Member Hill agreed and modified her motion to include striking Condition 2a. Member Lawrence seconded the motion, which failed with Members Stanley and Thomas and Chair Toulouse voting nay.

Member Thomas moved that after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Board of Adjustment approve Variance Case Number WPVAR16-0003 (Snyder Residence) to reduce the setback from 15 feet to 7 feet from the edge of the roadway pavement for Patrick and Filomena Snyder with the conditions of approval as included as Exhibit A for this matter having made all four findings in accordance with the Washoe County Development Code Section 110.804.25. Special Circumstances, No Detriment, No Special Privileges and Use Authorized. Member Stanley seconded the motion, which passed with Members Thomas, Stanley, and Toulouse voting for and Members Hill and Lawrence voting nay.

## **9. Chair and Board Items**

### **\*A. Future Agenda Items**

There were none.

### **\*B. Requests for Information from Staff**

Member Lawrence said the maps were much better this time.

## **10. Director's Items and Legal Counsel's Items**

### **\*A. Report on Previous Board of Adjustment Items**

Mr. Webb gave a report on the three appeals to the Board of County Commissioners (BCC). The first was on AP16-008, Sun Valley GID electronic message display board. The BCC upheld the appeal and reversed the decision of this Board which allowed the sign and they further directed staff to bring a Code Amendment forward to allow exemptions to the electronic message display sign regulations for governmental entities when the exception was for public benefit. Initiation of that Code Amendment should be on the BCC agenda for the end of this month but would be three or four months before they made a decision. The second case was on VA16-005 Thomas Lipka, the BCC upheld that appeal and reversed the decision of this Board. The third one was the appeal for Special Use Permit Case number SP16-010, Truckee Meadows Fire Protection District Fire Station 14, the BCC upheld that appeal and reversed the decision of this Board.

Mr. Whitney said he was now retired but wanted to say it had been a pleasure to work with this Board over the years. Chair Toulouse said he had been through two Directors but thought Mr. Whitney had done an outstanding job during his leadership. Each Board member took a moment to tell Mr. Whitney about their personal interactions, all of his contributions to the County and commended his hard work.

### **\*B. Legal Information and Updates**

DDA Edwards stated he did not have any updates.

## **11. \*General Public Comment**

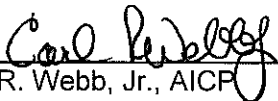
Chair Toulouse opened Public Comment. Cathy Brandhorst spoke about issues of concern to herself.

## **12. Adjournment**

The meeting adjourned at 4:30 p.m.

Respectfully submitted,  
*Jaime Deller*, Independent Contractor

Approved by Board in session on April 6, 2017

  
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Carl R. Webb, Jr., AICP  
Secretary to the Board of Adjustment